



Rep. Bill Mitchell

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1 AMENDMENT TO HOUSE BILL 5257

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5257 by replacing  
3 Section 5 of the bill with the following:

4 "Section 5. The Simplified Municipal Telecommunications  
5 Tax Act is amended by changing Section 5-7 as follows:

6 (35 ILCS 636/5-7)

7 Sec. 5-7. Definitions. For purposes of the taxes authorized  
8 by this Act:

9 "Amount paid" means the amount charged to the taxpayer's  
10 service address in such municipality regardless of where such  
11 amount is billed or paid.

12 "Department" means the Illinois Department of Revenue.

13 "Gross charge" means the amount paid for the act or  
14 privilege of originating or receiving telecommunications in  
15 such municipality and for all services and equipment provided  
16 in connection therewith by a retailer, valued in money whether  
17 paid in money or otherwise, including cash, credits, services  
18 and property of every kind or nature, and shall be determined  
19 without any deduction on account of the cost of such  
20 telecommunications, the cost of the materials used, labor or  
21 service costs or any other expense whatsoever. In case credit  
22 is extended, the amount thereof shall be included only as and  
23 when paid. "Gross charges" for private line service shall  
24 include charges imposed at each channel termination point

1 within a municipality that has imposed a tax under this Section  
2 and charges for the portion of the inter-office channels  
3 provided within that municipality. Charges for that portion of  
4 the inter-office channel connecting 2 or more channel  
5 termination points, one or more of which is located within the  
6 jurisdictional boundary of such municipality, shall be  
7 determined by the retailer by multiplying an amount equal to  
8 the total charge for the inter-office channel by a fraction,  
9 the numerator of which is the number of channel termination  
10 points that are located within the jurisdictional boundary of  
11 the municipality and the denominator of which is the total  
12 number of channel termination points connected by the  
13 inter-office channel. Prior to January 1, 2004, any method  
14 consistent with this paragraph or other method that reasonably  
15 apportions the total charges for inter-office channels among  
16 the municipalities in which channel termination points are  
17 located shall be accepted as a reasonable method to determine  
18 the taxable portion of an inter-office channel provided within  
19 a municipality for that period. However, "gross charge" shall  
20 not include any of the following:

21 (1) Any amounts added to a purchaser's bill because of  
22 a charge made pursuant to: (i) the tax imposed by this Act,  
23 (ii) the tax imposed by the Telecommunications Excise Tax  
24 Act, (iii) the tax imposed by Section 4251 of the Internal  
25 Revenue Code, (iv) 911 surcharges, or (v) charges added to  
26 customers' bills pursuant to the provisions of Section  
27 9-221 or 9-222 of the Public Utilities Act, as amended, or  
28 any similar charges added to customers' bills by retailers  
29 who are not subject to rate regulation by the Illinois  
30 Commerce Commission for the purpose of recovering any of  
31 the tax liabilities or other amounts specified in those  
32 provisions of the Public Utilities Act.

33 (2) Charges for a sent collect telecommunication  
34 received outside of such municipality.

1           (3) Charges for leased time on equipment or charges for  
2 the storage of data or information for subsequent retrieval  
3 or the processing of data or information intended to change  
4 its form or content. Such equipment includes, but is not  
5 limited to, the use of calculators, computers, data  
6 processing equipment, tabulating equipment or accounting  
7 equipment and also includes the usage of computers under a  
8 time-sharing agreement.

9           (4) Charges for customer equipment, including such  
10 equipment that is leased or rented by the customer from any  
11 source, wherein such charges are disaggregated and  
12 separately identified from other charges.

13           (5) Charges to business enterprises certified as  
14 exempt under Section 9-222.1 of the Public Utilities Act to  
15 the extent of such exemption and during the period of time  
16 specified by the Department of Commerce and Economic  
17 Opportunity ~~Community Affairs~~.

18           (6) Charges for telecommunications and all services  
19 and equipment provided in connection therewith between a  
20 parent corporation and its wholly owned subsidiaries or  
21 between wholly owned subsidiaries when the tax imposed  
22 under this Act has already been paid to a retailer and only  
23 to the extent that the charges between the parent  
24 corporation and wholly owned subsidiaries or between  
25 wholly owned subsidiaries represent expense allocation  
26 between the corporations and not the generation of profit  
27 for the corporation rendering such service.

28           (7) Bad debts ("bad debt" means any portion of a debt  
29 that is related to a sale at retail for which gross charges  
30 are not otherwise deductible or excludable that has become  
31 worthless or uncollectible, as determined under applicable  
32 federal income tax standards; if the portion of the debt  
33 deemed to be bad is subsequently paid, the retailer shall  
34 report and pay the tax on that portion during the reporting

1 period in which the payment is made).

2 (8) Charges paid by inserting coins in coin-operated  
3 telecommunication devices.

4 (9) Amounts paid by telecommunications retailers under  
5 the Telecommunications Infrastructure Maintenance Fee Act.

6 (10) Charges for nontaxable services or  
7 telecommunications if (i) those charges are aggregated  
8 with other charges for telecommunications that are  
9 taxable, (ii) those charges are not separately stated on  
10 the customer bill or invoice, and (iii) the retailer can  
11 reasonably identify the nontaxable charges on the  
12 retailer's books and records kept in the regular course of  
13 business. If the nontaxable charges cannot reasonably be  
14 identified, the gross charge from the sale of both taxable  
15 and nontaxable services or telecommunications billed on a  
16 combined basis shall be attributed to the taxable services  
17 or telecommunications. The burden of proving nontaxable  
18 charges shall be on the retailer of the telecommunications.

19 "Interstate telecommunications" means all  
20 telecommunications that either originate or terminate outside  
21 this State.

22 "Intrastate telecommunications" means all  
23 telecommunications that originate and terminate within this  
24 State.

25 "Person" means any natural individual, firm, trust,  
26 estate, partnership, association, joint stock company, joint  
27 venture, corporation, limited liability company, or a  
28 receiver, trustee, guardian, or other representative appointed  
29 by order of any court, the Federal and State governments,  
30 including State universities created by statute, or any city,  
31 town, county, or other political subdivision of this State.

32 "Purchase at retail" means the acquisition, consumption or  
33 use of telecommunications through a sale at retail.

34 "Retailer" means and includes every person engaged in the

1 business of making sales at retail as defined in this Section.  
2 The Department may, in its discretion, upon application,  
3 authorize the collection of the tax hereby imposed by any  
4 retailer not maintaining a place of business within this State,  
5 who, to the satisfaction of the Department, furnishes adequate  
6 security to insure collection and payment of the tax. Such  
7 retailer shall be issued, without charge, a permit to collect  
8 such tax. When so authorized, it shall be the duty of such  
9 retailer to collect the tax upon all of the gross charges for  
10 telecommunications in this State in the same manner and subject  
11 to the same requirements as a retailer maintaining a place of  
12 business within this State. The permit may be revoked by the  
13 Department at its discretion.

14 "Retailer maintaining a place of business in this State",  
15 or any like term, means and includes any retailer having or  
16 maintaining within this State, directly or by a subsidiary, an  
17 office, distribution facilities, transmission facilities,  
18 sales office, warehouse or other place of business, or any  
19 agent or other representative operating within this State under  
20 the authority of the retailer or its subsidiary, irrespective  
21 of whether such place of business or agent or other  
22 representative is located here permanently or temporarily, or  
23 whether such retailer or subsidiary is licensed to do business  
24 in this State.

25 "Sale at retail" means the transmitting, supplying or  
26 furnishing of telecommunications and all services and  
27 equipment provided in connection therewith for a  
28 consideration, to persons other than the Federal and State  
29 governments, and State universities created by statute and  
30 other than between a parent corporation and its wholly owned  
31 subsidiaries or between wholly owned subsidiaries for their use  
32 or consumption and not for resale.

33 "Service address" means the location of telecommunications  
34 equipment from which telecommunications services are

1 originated or at which telecommunications services are  
2 received by a taxpayer. In the event this may not be a defined  
3 location, as in the case of mobile phones, paging systems, and  
4 maritime systems, service address means the customer's place of  
5 primary use as defined in the Mobile Telecommunications  
6 Sourcing Conformity Act. For air-to-ground systems and the  
7 like, "service address" shall mean the location of a taxpayer's  
8 primary use of the telecommunications equipment as defined by  
9 telephone number, authorization code, or location in Illinois  
10 where bills are sent. "Service address" includes the 9-digit  
11 enhanced United States postal zip code.

12 "Taxpayer" means a person who individually or through his  
13 or her agents, employees, or permittees engages in the act or  
14 privilege of originating or receiving telecommunications in a  
15 municipality and who incurs a tax liability as authorized by  
16 this Act.

17 "Telecommunications", in addition to the meaning  
18 ordinarily and popularly ascribed to it, includes, without  
19 limitation, messages or information transmitted through use of  
20 local, toll, and wide area telephone service, private line  
21 services, channel services, telegraph services,  
22 teletypewriter, computer exchange services, cellular mobile  
23 telecommunications service, specialized mobile radio,  
24 stationary two-way radio, paging service, or any other form of  
25 mobile and portable one-way or two-way communications, or any  
26 other transmission of messages or information by electronic or  
27 similar means, between or among points by wire, cable, fiber  
28 optics, laser, microwave, radio, satellite, or similar  
29 facilities. As used in this Act, "private line" means a  
30 dedicated non-traffic sensitive service for a single customer,  
31 that entitles the customer to exclusive or priority use of a  
32 communications channel or group of channels, from one or more  
33 specified locations to one or more other specified locations.  
34 The definition of "telecommunications" shall not include value

1 added services in which computer processing applications are  
2 used to act on the form, content, code, and protocol of the  
3 information for purposes other than transmission.  
4 "Telecommunications" shall not include purchases of  
5 telecommunications by a telecommunications service provider  
6 for use as a component part of the service provided by such  
7 provider to the ultimate retail consumer who originates or  
8 terminates the taxable end-to-end communications. Carrier  
9 access charges, right of access charges, charges for use of  
10 inter-company facilities, and all telecommunications resold in  
11 the subsequent provision of, used as a component of, or  
12 integrated into, end-to-end telecommunications service shall  
13 be non-taxable as sales for resale. Prepaid telephone calling  
14 arrangements shall not be considered "telecommunications"  
15 subject to the tax imposed under this Act. For purposes of this  
16 Section, "prepaid telephone calling arrangements" means that  
17 term as defined in Section 2-27 of the Retailers' Occupation  
18 Tax Act.

19 (Source: P.A. 92-526, eff. 7-1-02; 92-878, eff. 1-1-04; 93-286,  
20 eff. 1-1-04; revised 12-6-03.)".